

**OPINION  
42-115**

September 19, 1942 (OPINION)

TAXES

RE: Priority as between same and state judgment

Re: Application for Satisfaction of Judgment vs. Henry Crawford.

You have submitted the attached papers to me for my opinion as to whether or not the lien of the judgment held by the state has priority over the lien of the county of Burleigh for taxes on the lands described in these papers.

In the case of state vs. Divide County, 68 North Dakota 708, it was that section 2186 of the Compiled Laws makes taxes upon real estate a paramount perpetual lien against all persons and bodies corporate except the United States and the state. It is also held that this section lays down no rule to determine priority of liens held by the state itself. If, therefor, under the provisions of this section, taxes are a paramount lien, except as against liens of the state, it would seem to me that the lien of the state by reason of the judgment mentioned would be prior to any lien for taxes levied after the judgment lien attached. It does not appear from the papers submitted, when the taxes were levied under which the county is contemplating taking tax title. If these taxes were levied prior to the entry of the judgment, undoubtedly the county lien for taxes is superior to the judgment. If, however, the county is claiming under a lien for taxes levied subsequent to the entry of judgment, it would be my opinion that the judgment lien has priority.

The question of homestead might enter into the matter, for if the property is the homestead of Crawford, then it is possible that the judgment lien would not attach.

ALVIN C. STRUTZ  
Attorney General